IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5240 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE JAYANT PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

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HARSHIBHAI LAKHMANBHAI MAHESHWARI

Versus

SECRETARY, REVENUE DEPARTMENT

Appearance:

1. Special Civil Application No. 5240 of 2002
MR CH VORA for Petitioner No. 1
MR KP RAWAL, Ld. AGP for Respondent No. 1-2

CORAM : MR.JUSTICE JAYANT PATEL

Date of decision: 06/09/2002

ORAL JUDGEMENT

1. Rule. Mr.K.P.Rawal, learned AGP, is directed to

appear and waives service of notice of rule on behalf of the respondents. With the consent of the parties, the matter is taken up for final hearing today.

2. The only contention raised in this petition is that there is no statutory time limit provided under Section 211 of the Bombay Land Revenue Code. However, Mr.Vora, learned Counsel for the petitioner, has submitted that even if the reasonable period of 90 days' time taken as the basis, there was a delay of about five months in preferring the revision application. It is submitted that the Government is the only contesting respondent and there is no any interested private party since the subject matter of the revision was pertaining to payment of premium. Mr.Vora also submitted that if the reasonable cost is ordered by the Court, the petitioner is agreeable and the matter may be directed to be decided on merits.

3. On behalf of the respondents, Rawal has supported the order.

4. Considering the above, since the revision is dismissed only on the point of time limit and the merits of the matter is not examined, I am of the view that no prejudice will be caused to the Government also if the revision is ordered to be decided on merits. Under the circumstances, the order dated 6-8-2001 passed by the Secretary, Revenue Department (Appeals), Gujarat State, Annexure "B" is quashed at set aside with the direction that the revision shall be restored to file and the Secretary shall decide the revision on its merits and in accordance with law. The petitioner shall pay a sum of Rs.2,000/-(Rupees two thousand only) to the Government towards the cost of this litigation, which will be paid by the petitioner within a period of three months from today. The petition is allowed to the aforesaid extent. Rule is made absolute accordingly.

6-9-2002 (Jayant Patel, J.)

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